

## Message Text

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ACTION L-03

INFO OCT-01 IO-13 ISO-00 CIAE-00 PM-04 H-01 INR-07  
NSAE-00 NSC-05 PA-01 PRS-01 SP-02 SS-15 USIA-06  
ACDA-07 OIC-02 DPW-01 DHA-02 ORM-02 AF-10 ARA-06  
EA-07 EUR-12 NEA-10 /118 W  
-----300005Z 065339 /15

R 291718Z APR 77

FM USMISSION GENEVA  
TO SECSTATE WASHDC 6958  
USMISSION USUN NEW YORK  
JCS WASHDC

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DOD: ALOS PASS TO AF/JA, NAVY JAG, DAJA-IA, DCPA

E.O.11652: NA

TAGS: ICRC, PARM, PFOR

SUBJECT: ADOPTION OF ARTICLES ON TREATMENT OF PERSONS IN  
THE POWER OF A PARTY TO THE CONFLICT

REF: GENEVA 3249

1. TEXTS OF ARTICLES 63 THROUGH 66, ADOPTED APRIL 29 BY  
CONSENSUS IN COMMITTEE III, AS REPORTED IN WEEKLY SUMMARY  
READ AS FOLLOWS:

ARTICLE 63 - FIELD OF APPLICATION. THE PROVISIONS OF  
THIS SECTION ARE ADDITIONAL TO THE RULES CONCERNING  
HUMANITARIAN PROTECTION OF CIVILIANS AND CIVILIAN  
OBJECTS IN THE POWER OF A PARTY TO THE CONFLICT CON-  
TAINED IN THE FOURTH CONVENTION, PARTICULARLY PARTS I  
AND III THEREOF, AS WELL AS TO OTHER APPLICABLE RULES OF  
INTERNATIONAL LAW RELATING TO THE PROTECTION OF FUNDA-  
MENTAL HUMAN RIGHTS DURING INTERNATIONAL ARMED  
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CONFLICT.

ARTICLE 64 - REFUGEES AND STATELESS PERSONS.  
PERSONS WHO, BEFORE THE BEGINNING OF HOSTILITIES, WERE  
CONSIDERED AS BEING STATELESS PERSONS OR REFUGEES UNDER  
THE RELEVANT INTERNATIONAL INSTRUMENTS ACCEPTED BY THE  
PARTIES CONCERNED OR THE NATIONAL LEGISLATION OF THE

STATE OF REFUGE OR STATE OF RESIDENCE SHALL BE PROTECTED PERSONS WITHIN THE MEANING OF PARTS I AND III OF THE FOURTH CONVENTION, IN ALL CIRCUMSTANCES AND WITHOUT ANY ADVERSE DISTINCITION.  
ARTICLE 65.

(1) IN SO FAR AS THEY ARE AFFECTED BY A SITUATION REFERRED TO IN ARTICLE 1 OF THIS PROTOCOL, PERSONS WHO ARE IN THE POWER OF A PARTY TO THE CONFLICT AND WHO DO NOT BENEFIT FROM MORE FAVOURABLE TREATMENT UNDER THE CONVENTIONS OR UNDER THIS PROTOCOL SHALL BE TREATED HUMANELY UNDER ALL CIRCUMSTANCES AND SHALL ENJOY, AS A MINIMUM, THE PROTECTION PROVIDED BY THEIS ARTICLE WITHOUT ANY ADVERSE DISTINCTION BASED UPON RACE, COLOUR, SEX, LANGUAGE, RELITION OR BELIEF, POLITICAL OR OTHER OPINION, NATIONAL OR SOCIAL ORITIN, WEALTH, BIRTH OR OTHER STATUS, OR ON ANY OTHER SIMILAR CRITERIA. EACH PARTY SHALL RESPECT THE PERSON, HOUOUR, CONVICTIONS AND RELIGIOUS PRACTICES OF ALL SUCH PERSONS.

(2) THE FOLLOWING ACTS ARE AND SHALL REMAIN PROHIBITED AT ANY TIME AND IN ANY PLACE WHATSOEVER, WHEHTER COMMITTED BY CIVILIAN OR BY MILITARY AGENTS:

(A) VIOLENCE TO THE LIVE, HEALTH, OR PHYSICAL OR MENTAL WELL-BEING OF PERSONS, IN PARTICULAR:

(I) MURDER;

(II) TORTURE OF ALL KINDS WHETHER PHYSICAL OR MENTAL;

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(III) CORPORAL PUNISHMENT; AND

(IV) MUTILATION;

(B) OUTRAGES UPON PERSONAL DIGNITY, IN PARTICULAR HUMILIATING AND DEGRADING TREATMENT, ENFORCED PROSTITUTION AND ANY FORM OF INDECENT ASSAULT;

(C) THE TAKING OF HOSTAGES;

(D) COLLECTIVE PUNISHMENTS; AND

(E) THREATS TO COMMIT ANY OF THE FOREGOING ACTS.

(3) ANY PERSON ARRESTED, DETAINED, OR INTERNED FOR ACTIONS RELATED TO THE ARMED CONFLICT SHALL BE INFORMED PROMPTLY, IN A LANGUAGE HE UNDERSTANDS, OF THE REASONS WHY THESE MEASURES HAVE BEEN TAKEN. EXCEPT IN CASES OF ARREST OR DETENTION FOR CRIMINAL OFFENCES, SUCH PERSONS SHALL BE RELEASED WITH THE MINIMUM DELAY POSSIBLE AND IN ANY EVENT AS SOON AS THE CIRCUMSTANCES JUSTIFYING THE ARREST, DETENTION OR INTERNMENT HAVE CEASED TO EXIST.

(4) NO SENTENCE MAY BE PASSED AND NO PENALTY MAY BE EXECUTED ON A PERSON FOUND GUILTY OF A PENAL OFFENCE RELATED TO THE ARMED CONFLICT EXCEPT PURSUANT TO A CONVICTION PRONOUNCED BY AN IMPARTIAL AND REGULARLY CONSTITUTED COURT RESPECTING THE GENERALLY RECOGNIZED PRINCIPLES OF REGULAR JUDICIAL PROCEDURE, WHICH INCLUDE THE FOLLOWING:

(A) THE PROCEDURE SHALL PROVIDE FOR AN ACCUSED TO BE INFORMED WITHOUT DELAY OF THE PARTICULARS OF THE OFFENSE ALLEGED AGAINST HIM AND SHALL AFFORD THE ACCUSED BEFORE AND DURING HIS TRIAL ALL NECESSARY RIGHTS AND MEANS OF DEFENCE;

(B) NO-ONE SHALL BE CONVICTED OF AN OFFENCE EXCEPT ON THE BASIS OF INDIVIDUAL PENAL RESPONSIBILITY;

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(C) NO-ONE SHALL BE ACCUSED OR CONVICTED OF A CRIMINAL OFFENCE ON ACCOUNT OF ANY ACT OR OMISSION WHICH DID NOT CONSTITUTE A CRIMINAL OFFENCE UNDER THE NATIONAL OR INTERNATIONAL LAW TO WHICH HE WAS SUBJECT AT THE TIME WHEN IT WAS COMMITTED; NOR SHALL A HEAVIER PENALTY BE IMPOSED THAN THAT WHICH WAS APPLICABLE AT THE TIME WHEN THE CRIMINAL OFFENCE WAS COMMITTED; IF AFTER THE COMMISSION OF THE OFFENCE, PROVISION IS MADE BY LAW FOR THE IMPOSITION OF A LIGHTER PENALTY, THE OFFENDER SHALL BENEFIT THEREBY;

(D) ANYONE CHARGED WITH AN OFFENCE IS PRESUMED

INNOCENT UNTIL PROVED GUILTY ACCORDING TO LAW;

(E) ANYONE CHARGED WITH AN OFFENCE SHALL HAVE  
THE RIGHT TO BE TRIED IN HIS PRESENCE;

(F) NO-ONE SHALL BE COMPELLED TO TESTIFY  
AGAINST HIMSELF OR TO CONFESS GUILT;

(G) ANYONE CHARGED WITH AN OFFENCE SHALL  
HAVE THE RIGHT TO EXAMINE, OR HAVE EXAMINED, THE  
WITNESSES AGAINST HIM AND TO OBTAIN THE ATTENDANCE AND  
EXAMINATION OF WITNESSES ON HIS BEHALF UNDER THE SAME  
CONDITIONS AS WITNESSES AGAINST HIM;  
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(H) NO-ONE SHALL BE PROSECUTED OR PUNISHED FOR  
AN OFFENCE IN RESPECT OF WHICH A FINAL JUDGMENT HAS BEEN  
PREVIOUSLY PRONOUNCED UNDER THE SAME LAW AND LEGAL PRO-  
CEDURE OF THE PARTY ACQUITTING OR CONVICTING THAT PER-  
SON;

(I) ANYONE PROSECUTED FOR AN OFFENCE SHALL HAVE  
THE RIGHT TO HAVE HIS JUDGMENT PRONOUNCED PUBLICLY; AND

(J) A CONVICTED PERSON SHALL BE ADVISED ON CON-  
VICTION OF HIS JUDICIAL AND OTHER REMEDIES AND OF THE  
TIME LIMITS WITHINWHICH THEY MAY BE EXERCISED.

(5) WOMEN WHOSE LIBERTY HAS BEEN RESTRICTED FOR  
REASONS RELATED TO THE ARMED CONFLICT SHALL BE HELD IN  
QUARTERS SEPARATED FROM MEN'S QUARTERS. THEY SHALL BE  
UNDER THE IMMEDIATE SUPERVISION OF WOMEN. NEVERTHELESS,  
IN CASES WHERE FAMILIES AR DETAINED OR INTERNED, THEY  
SHALL WHENEVER POSSIBLE, BE HELD IN THE  
SAME PLACE AND ACCOMMODATED AS FAMILY UNITS.

(6) PERSONS WHO ARE ARRESTED, DETAINED OR INTERNED  
FOR REASONS RELATED TO THE ARMED CONFLICT SHALL  
ENJOY THE PROTECTION PROVIDED BY THIS ARTICLE UNTIL  
THEIR FINAL RELEASE, REPATRIATION, OR RE-ESTABLISHMENT,  
EVEN AFTER THE END OF THE ARMED CONFLICT.

(7) IN ORDER TO AVOID ANY DOUBT CONCERNING THE  
PROSECUTION AND TRIAL OF PERSONS ACCUSED OF WAR CRIMES  
OR CRIMES AGAINST HUMANITY, THE FOLLOWING PRINCIPLES  
SHALL APPLY:

(A) PERSONS WHO ARE ACCUSED OF SUCH CRIMES  
SHOULD BE SUBMITTED FOR THE PURPOSE OF PROSECUTION AND  
TRIAL IN ACCORDANCE WITH THE APPLICABLE RULES OF INTER-  
NATIONAL LAW, AND

(B) ANY SUCH PERSONS WHO DO NOT BENEFIT FROM  
MORE FAVOURABLE TREATMENT UNDER THE CONVENTIONS OR THIS  
PROTOCOL SHALL BE ACCORDED THE TREATMENT PROVIDED BY  
THIS ARTICLE, WHEHTER OR NOT THE CRIMES OF WHICH  
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THEY ARE ACCUSED CONSTITUTE GRAVE BREACHES OF THE CONVENTIONS OR OF THIS PROTOCOL.

(8) NO PROVISION OF THIS ARTICLE MAY BE CONSTRUED AS LIMITING OR INFRINGING ANY OTHER MORE FAVOURABLE PROVISION GRANTING GREATER PROTECTION TO PERSONS COVERED BY PARAGRAPH 1 UNDER ANY APPLICABLE RULES OF INTERNATIONAL LAW.

ARTICLE 66.

(1) THE PROVISIONS OF THIS PROTOCOL WITH RESPECT TO ATTACKS APPLY TO ALL ATTACKS WHERESOEVER CONDUCTED INCLUDING THE NATIONAL TERRITORY BELONGING TO A PARTY TO THE CONFLICT BUT UNDER THE CONTROL OF AN ADVERSARY.

(2) IN RECOGNITION OF THE VITAL REQUIREMENTS OF ANY PARTY TO THE CONFLICT IN THE DEFENSE OF ITS NATIONAL TERRITORY AGAINST INVASION, DEROGATION FROM THE PROHIBITIONS CONTAINED IN PARAGRAPH 2 OF ARTICLE 48 MAY BE MADE BY A PARTY TO THE CONFLICT WITHIN SUCH TERRITORY UNDER ITS OWN CONTROL WHERE REQUIRED BY IMPERATIVE MILITARY NECESSITY. SORENSON

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## Message Attributes

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